

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
JUNE 14, 2006**

- CALL TO ORDER** A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Charles Lapp, Frank DeKort, Randy Toavs, Gordon Cross, Don Hines and Jeff Larsen. Gene Dziza and Kathy Robertson were not present. BJ Grieve, Nicole Lopez-Stickney, Eric Giles, and Jeff Harris represented the Flathead County Planning & Zoning Office.
- There were approximately 10 people in the audience.
- PUBLIC REVIEW** Jeff Larsen reviewed the public hearing process.
- APPROVAL OF MINUTES** DeKort made a motion seconded by Hines to approve the May 10, 2006 minutes.
- On a roll call vote the motion passed unanimously.
- PUBLIC COMMENT** None.
- PLANNED UNIT DEVELOPMENT/ POHAKU KAHAWAI (FPUD 06-01)** A request in the Lakeside Zoning District by Steve and Michelle Parker for a ten (10) lot Planned Unit Development and Major Subdivision, which will be known as 'Pohaku Kahawai', on approximately 2.47 acres. All structures in the planned unit development are proposed to have public water and sewer. The property is located at 101 Stoner Creek Road.
- STAFF REPORT** BJ Grieve reviewed Staff Report FPUD-06-01 for the Board (*Traci Sears-Tull, the planner for this project, was out of town*).
- BOARD QUESTIONS** Larsen questioned the parking spaces, setbacks, and the right-of-way.
- Grieve explained the setbacks.
- The Board discussed the setbacks for the PUD application.
- Cross asked about Lots 6, 8, and 9 and whether the retaining wall is part of the Homeowners Association and who would maintain that portion of the property.
- Toavs asked about particular driveways and whether they could be widened.

**APPLICANT**

Steve Parker, the applicant, explained the name of the PUD. He talked about the design and how it fits with the Zoning Regulations. He talked about the setbacks and reiterated the Lakeside Community Council sent a favorable recommendation. He stated the exterior would be maintained by the Homeowners Association.

Bruce Lutz, of Sitescape Associates, talked about the flexibility of the PUD. They feel the design fits with this property. He gave some background about why they went with the PUD design instead of condominiums. He spoke about the setbacks and how they could provide double garages underneath the units to accommodate parking for property owners and their visitors. He also spoke about the concern regarding the proximity of two of the buildings to the creek. He stated those would not have basements but rather a crawl space. He commented this area is not in a floodplain. He spoke about the road that would be a 20 foot driving surface and how they had met with the fire chief who approved the "hammerhead" turnaround. He felt they have done a very good plan that would not unnecessarily disturb the land. They feel the timber is a very important resource. He pointed out a walking path along the creek and the small monument sign at the entrance to the PUD. He showed an aerial photo of the area and how it fits in with the community. He also showed pictures of the actual homes that would be constructed.

**AGENCIES**

None present.

**PUBLIC  
COMMENT**

None.

**STAFF  
REBUTTAL**

Grieve stated the PUD plan would become the zoning if approved. This would be the contract by which this proposal would be bound; not the Lakeside Neighborhood Plan.

**APPLICANT  
REBUTTAL**

None.

**MAIN MOTION**

Hines made a motion seconded by Cross to adopt staff Report FPUD 06-01 as findings of fact as amended and recommended approval to the Board of County Commissioners.

**BOARD  
DISCUSSION**

Lapp asked the engineer about the storm water drainage.

Walcheck, of 48 North Engineering, stated it would be curb and gutter for storm water management.

Hines asked if there was one (1) less unit would this project still be viable and would it relieve some of the restrictions such as the retaining wall.

Lutz stated they are not uncomfortable with the density this project is proposing.

Lapp stated he is concerned about the road without an easement and the fact the buildings are so close to the road. He stated this will set precedent along Stoner Creek. He also said everything would be disturbed during construction, it can't be helped.

Lutz commented they don't have an aversion to a 40-ft. easement.

Larsen asked about the slope.

Walcheck stated it is a constant 8% slope coming down the hill. He stated the next process is to stake the project, as they are not done with the engineering. He said they used the topography to get to where they are.

Lutz stated if the project needs to be tweaked it will be done during the final plan.

Cross said he liked the PUD format. He felt it was presented well and didn't feel it would set a precedent. He was concerned with the parking and the safety issue for homeowners with regard to emergency vehicles.

Lutz pointed each unit out on the map and where the property owners/visitors would park.

Hines stated there would not be any trees left after construction.

Lapp agreed with Hines and stated they wouldn't be able to log most of the property because of the setbacks.

**MOTION**  
**Condition #25**

Lapp made a motion seconded by DeKort to state houses on Lots 4 and 5 shall be removed from the plan to save some of that area for a natural buffer.

Cross said if they were to reduce this proposal by two (2) structures they could redesign the whole project rather than just removing homes from Lots 4 and 5.

Hines asked about a continuance to allow the applicant to make some changes to address the issues the Board has.

Grieve stated this is the appropriate time and place for making changes to this application. He gave the Board their options for discussion.

**ROLL CALL**  
**Condition #25**

On a roll call vote the motion passed 5-1 with Larsen dissenting.

The Board discussed the setbacks, right-of-way, and the utilities easement.

Toavs stated he is concerned about parking. He questioned the trail being open to the public and also questioned where the public would park.

Lutz stated they would modify the plan to show an additional six (6) or seven (7) visitor parking spaces.

Hines asked about sewer treatment.

Walcheck stated it would be Environmental-1 units and explained what that meant.

The Board, Staff, and Lutz discussed parking spaces and locations for each unit.

**MOTION**  
**Condition #11**

Cross made a motion seconded by Hines to amend condition #11 to state that homes #3, #7, and #8 shall have a two (2) car garage and an eighteen (18) foot wide driveway.

**ROLL CALL**  
**Condition #11**

On a roll call vote the motion passed unanimously.

**MOTION**  
**Condition #18**

Lapp made a motion seconded by Toavs to amend condition #18 to state that the building heights will not exceed thirty-five (35) feet.

**ROLL CALL**  
**Condition #18**

On a roll call vote the motion passed 5-1 with Hines dissenting.

**BOARD**  
**DISCUSSION**

Lapp asked the engineer questions regarding the slope.

Walcheck explained.

The Board discussed their opportunity to be a part of this proposal and wanted to do their best to make it work.

**MOTION**  
**Condition #26**

Cross made a motion seconded by DeKort to add condition #26 to read eight (8) total visitor parking spaces shall be added along Deer Creek Road between Lots 1 and 2, Lot 9 and the east property line, and alongside the southern edge of the road opposite Lot 2.

**ROLL CALL**  
**Condition #26**

On a roll call vote the motion passed unanimously.

**MOTION**  
**Condition #10**

Lapp made a motion seconded by DeKort to amend condition #10 to state: Deer Creek Road shall have a 40-foot road easement with a 20-foot travel surface constructed with curb and gutter.

**ROLL CALL**  
**Condition #10**

On a roll call vote the motion passed unanimously.

**MAIN MOTION**  
**ROLL CALL**

On a roll call vote the motion failed 3-3 with DeKort, Cross and Hines dissenting.

**SUBSIDIARY**  
**MOTION**

DeKort made a motion seconded by Hines to adopt staff report FPUD-06-01 as findings of fact as amended and recommended **denial** to the Board of County Commissioners.

**SUBSIDIARY**  
**MOTION**  
**ROLL CALL**

On a roll call vote the motion failed 3-3 with Larsen, Toavs and Lapp dissenting.

**BOARD**  
**DISCUSSION**

The Board and Staff discussed, at length, their options in regard to reviewing the Preliminary Plat portion of the proposal due to the fact there was no recommendation being made for the Board of County Commissioners and the statutory timeline.

**BOARD**  
**QUESTIONS**

Hines asked Wirtala her opinion regarding hearing the Preliminary Plat portion of a project when the PUD portion is denied.

Wirtala stated if the Board doesn't hear it (she referenced her project Whisper Ridge), it pushes the project out several months. She commented her co-worker, Eric Mulcahy, has the opinion that both portions should be heard at the same meeting, regardless of the action taken, and forwarded to the Board of County Commissioners.

The Board and Staff continued to discuss their options.

**PRELIMINARY  
PLAT/POHAKU  
KAHAWAI  
(FPP-06-28)**

A request in the Lakeside Zoning District by Steve and Michelle Parker for a ten (10) lot Planned Unit Development and Major Subdivision, which will be known as 'Pohaku Kahawai', on approximately 2.47 acres. All structures in the planned unit development are proposed to have public water and sewer. The property is located at 101 Stoner Creek Road.

**STAFF REPORT**

BJ Grieve reviewed Staff Report FPP-06-28 for the Board.

*(This had to be revised to recommend denial of this proposal based on the fact that it did not comply with the Lakeside Neighborhood Plan.)*

**APPLICANT**

Steve Parker, the applicant, commented about the retaining wall and how it would be an intricate part of the whole system. He stated the site is complex and beautiful and they designed the wall as an integral part of the whole thing.

**AGENCIES**

None present.

**PUBLIC HEARING**

None.

**MAIN MOTION**

Hines made a motion seconded by DeKort to adopt staff report FPP-06-28 as findings of fact and recommended denial to the Board of County Commissioners.

**BOARD  
DISCUSSION**

Lapp stated without having the PUD in place, it is really hard for him to support this proposal with no setbacks and such.

Larsen agreed.

The Board discussed the tie vote and what action could be taken.

Hines recommended a Board member attend the County Commissioners meeting to see what the outcome will be.

**MAIN MOTION  
ROLL CALL**

On a roll call vote the motion passed 5-1 with Larsen dissenting.

<b>ZONE CHANGE/ WAYNE TURNER</b>	A Zone Change request in the West Side Zoning District by Wayne E. Turner from AG-80 (Agricultural, 80 acres) to SAG-5 (Suburban Agricultural, 5 acres). The property is located off Stillwater Road and contains 16 acres.
<b>STAFF REPORT</b>	Nicole Lopez-Stickney reviewed Staff Report FZC-06-02 for the Board.
<b>APPLICANT</b>	Erica Wirtala, of Sands Surveying represented the applicant. She commented about the text amendment, by the same applicants, that was previously denied by the Board; it would have allowed mini-storage units in a SAG-5 zoning district. She handed out maps to the Board and pointed out the zoning on surrounding properties. She stated although this area is zoned AG-80, there are very little properties that meet that zoning requirement. She commented this property will act as a buffer from development in the future.
<b>AGENCIES</b>	None present.
<b>PUBLIC COMMENT</b>	None.
<b>APPLICANT REBUTTAL</b>	None.
<b>STAFF REBUTTAL</b>	None.
<b>MAIN MOTION</b>	DeKort made a motion seconded by Lapp to adopt Staff Report FZC 06-02 as findings of fact and recommended approval to the Board of County Commissioners.
<b>BOARD DISCUSSION</b>	Cross stated it doesn't make sense to rezone this to act as a buffer for future development. He is uncomfortable with the text amendment floating around out there because he wouldn't want to see storage units there.
<b>ROLL CALL <i>Main Motion</i></b>	On a roll call vote the motion passed 4-2 with Hines and Cross dissenting.
<b>PRELIMINARY PLAT/FOSTER INVESTMENTS</b>	A request by Kristine M. Foster for Preliminary Plat approval of Foster Investments Subdivision, a three (3) lot commercial subdivision on 9.142 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located at the corner of MT Highway 82 and North Somers Road.
<b>STAFF REPORT</b>	Nicole Lopez-Stickney reviewed Staff Report FPP-06-21 for the Board.

**BOARD  
QUESTIONS**

The Board and Staff discussed, at length, upgrading the road and how the Planning Office can require the applicant to bring the road up to County standards.

Larsen commented every time they see a subdivision, they are required to upgrade the roads due to the fact they are not up to County standards and are unsafe. He would like to see a list of roads in the County that do meet the standards. He said he grew up in this area and has driven on the roads all his life. He also said people like things to be of a certain standard but we can't always afford everything. He stated there comes a time when the Road Department has to take some responsibility for the fact that roads are unsafe and asked what we are doing with our Road Department budget.

Hines commented about the moratorium from the Lakeside Water and Sewer District and the fact there was not a "will serve" letter.

**APPLICANT**

Erica Wirtala, of Sands Surveying represented the applicant. She commented about condition #5 and stated the road is currently up to County standards. She handed out photos of several current uses in the area, which are commercial in nature. She stated there are existing sewer systems and they would not be required to hook up to public utilities and that's why they didn't contact the Sewer District. She spoke about the concerns of MDOT and referenced the Cooper Farms Master Plan Amendment. They were required to do a traffic study for that project. She requested staff remove condition #5 from the staff report.

**AGENCIES**

None present.

**PUBLIC  
COMMENT**

Kathryn Maxwell, 114 Pikes Peak, didn't feel she learned what the actual proposal would be and therefore felt there would be no telling what the impact would be. She spoke about commercial development in that area and stated they all fail. She spoke about the projected growth and the Cooper Farms Neighborhood Plan. She asked the Board to put this on hold to see if there would be a need for commercial businesses in this area.

**APPLICANT  
REBUTTAL**

Wirtala stated these are smaller lots and the owner would like to make these a little more manageable. They will be small scale commercial lots.

**STAFF  
REBUTTAL**

None.

**MAIN MOTION**

Lapp made a motion seconded by Toavs to adopt staff report FPP-06-21 as findings of fact as amended and recommended approval to the Board of County Commissioners.



**MOTION**  
**Condition #7**

Hines made a motion seconded by Toavs to amend condition #7 to state the subdivider shall upgrade the community water system to handle the additional lots and hook up to the municipal sewer system.

**BOARD**  
**DISCUSSION**

Hines explained his motion.

The Board discussed which district the sewer would be in as Lakeside currently has a moratorium on new development because they do not have the capacity.

**ROLL CALL**  
**Condition #7**

On a roll call vote the motion passed 5-1 with Lapp dissenting.

**BOARD**  
**DISCUSSION**

Toavs asked why this was submitted as a commercial application instead of a zone change so the Board could see what would be on this property.

Wirtala stated they sought this as a commercial subdivision as opposed to a zone change because there are already two commercial uses on this property.

The Board discussed the fact they do not know what could be developed on this property.

Wirtala stated if a person bought one of the lots and wanted to make it residential in nature, they could do so but would have go through DEQ approval.

Lopez-Stickney stated because the area is unzoned, the Planning Office doesn't have jurisdiction to regulate the use on the property even if they are reviewed commercial or residential.

Toavs stated he didn't understand why they were doing this.

Wirtala stated she is trying to create three (3) parcels out of one (1).

The Board and Staff discussed what could be done on this property and what authority they have.

Lapp spoke about condition #5 and stated he doesn't understand why the Road Department sent a letter requiring the applicant to upgrade the road to County standards. The photos show the road is fine.

The Board discussed the road issue at great length.

**MOTION**  
**Condition #5**

Lapp made a motion seconded by Hines to strike condition #5.

**ROLL CALL**  
**Condition #5**

On a roll call vote the motion passed unanimously.

**BOARD**  
**DISCUSSION**

Lapp stated the County needs to step up and let everyone know what their fair share is.

Cross commented about his concerns regarding this area being a 'hot-spot' at this time. He agreed with the public comment about waiting for the Growth Policy to be adopted to see what might be needed or wanted in this gateway to the valley.

Hines commented there is a pacer system and Charlie Johnson from the Road Department has been trying to get this study done for numerous years but hasn't been able to get it done due to man power, money, or other issues. Hines wondered if the Board could send him a letter to get these standards in place so Staff could go down the list and note which ones are paved and what they're rated. He stated it would alleviate a lot of the "unknown" they see at Board meetings. He would like a letter sent to the Road Department requesting this.

Lapp stated everyone would then know which roads need repair.

Hines would like a letter copied to the Board of County Commissioners as well as the County Attorney's Office.

Larsen commented it would put the County in a lot better position if someone had a lawsuit against them.

Larsen stated he would be more comfortable with this being a residential subdivision. He doesn't know if this is an appropriate place for a commercial subdivision.

**MAIN MOTION**  
**ROLL CALL**

On a roll call vote the motion failed 5-1 with Lapp voting in favor.

**MOTION TO**  
**DENY**

Cross made a motion seconded by Hines to adopt staff report FPP-06-21 as findings of fact as amended and recommended **denial** to the Board of County Commissioners.

**ROLL CALL**

On a roll call vote the motion passed 5-1 with Lapp voting in favor of the proposal.

The Board discussed the reasons for denial.

<b>ZONE CHANGE/PEAK DEVELOPMENT</b>	A Zone Change request in the Evergreen and Vicinity Zoning District by Peak Development, LLP, from B-2 (General Business) to RA-1 (Residential Apartment). The property is located at 145 Bando Lane.
<b>STAFF REPORT</b>	Eric Giles reviewed staff report FZC-06-11 for the Board.
<b>APPLICANT</b>	Jim Burton, 1304 3 <sup>rd</sup> Avenue East, represented the applicant. He stated this will not be affordable housing, but will be apartments, a total of 57 units. He commented they would still have to get a Conditional Use Permit for the apartments, but they need to get the zone changed from business to residential before they can proceed. This proposal will be served by Evergreen Water and Sewer, and they are working with the Fire Department for the placement of fire hydrants and other things.
<b>AGENCIES</b>	None present.
<b>PUBLIC COMMENT</b>	None.
<b>APPLICANT REBUTTAL</b>	None.
<b>STAFF REBUTTAL</b>	None.
<b>MAIN MOTION</b>	Hines made a motion seconded by Cross to adopt staff report FZC 06-11 as findings of fact and recommended approval to the Board of County Commissioners.
<b>BOARD DISCUSSION</b>	None.
<b>MAIN MOTION ROLL CALL</b>	On a roll call vote the motion passed unanimously.
<b>PRELIMINARY PLAT/DENISE ESTATES #3</b>	A request by Emily Wager for Preliminary Plat approval of Denise Estates Phase III, a two (2) lot commercial subdivision on 3.001 acres. All lots in the subdivision are proposed to have individual water and sewer systems. The property is located off of Pleasant Valley Road.
<b>STAFF REPORT</b>	Eric Giles reviewed staff report FPP-06-24 for the Board.
<b>APPLICANT</b>	Erica Wirtala, of Sands Surveying, represented the applicant. She showed the Board a map of the area and stated it is one lot shy of the convenience store. She stated the property is well off of the highway. She commented although it is unzoned, it is still in compliance with the Master Plan as written for small neighborhood commercial zones.

<b>AGENCIES</b>	None present.
<b>PUBLIC COMMENT</b>	None.
<b>APPLICANT REBUTTAL</b>	None.
<b>STAFF REBUTTAL</b>	None.
<b>MAIN MOTION</b>	DeKort made a motion seconded by Hines to adopt staff report FPP-06-24 as findings of fact as amended and recommended approval to the Board of County Commissioners.
<b>BOARD DISCUSSION</b>	<p>Hines asked if the applicant would be willing to use a shared well rather than municipal services.</p> <p>Wirtala said that would be acceptable.</p>
<b>MOTION</b> <i>Condition #5</i>	Hines made a motion seconded by DeKort to amend condition #5 to add that the well for the two lots shall be shared.
<b>ROLL CALL</b> <i>Condition #5</i>	On a roll call vote the motion passed unanimously.
<b>MAIN MOTION ROLL CALL</b>	On a roll call vote the motion passed unanimously.
<b>OLD BUSINESS</b>	<p>Cross commented about a meeting at Majestic Valley 6-14-06 regarding the Riverdale Neighborhood Plan.</p> <p>Harris commented on the same meeting and stated there will be another meeting two weeks from today at 3:00 p.m. at Majestic Valley Arena.</p> <p>The Board and Staff discussed, at length, the Riverdale Neighborhood Plan and what would be coming up in regards to the public meetings and work-sessions. They also discussed the court ruling regarding the mall proposal and how they need to make sure to follow proper procedure with this proposal and every proposal for that matter.</p> <p>Harris handed out a report by the LRPTF Transportation Committee for the Board.</p> <p>Grieve updated the Board on the status of the Growth Policy and stated he had a schedule that will be handed out to the public 6-14-06. He said the Planning Office had been instructed to meet the October 1, 2006 deadline and the schedule will reflect that date.</p>

Cross commented he would like to see more public participation and would like the Planning Staff to notify the public in any and all manners possible.

Hines would like Board members accompany Staff to some of these public outreach quorums.

Grieve stated Staff will do the absolute best job they can to make sure they reach as many people as possible.

**NEW BUSINESS**

Hines said they need to force the issue of getting the road study done. He would like Staff to prepare a letter on behalf of the Board, to Charlie Johnson at the Road Department and copy it to the Board of County Commissioners and County Attorney.

**MOTION**

***Road Study Letter***

Hines made a motion seconded by Cross to have staff draft a letter to Charlie Johnson of the County Road Department addressing the road study.

The motion carried by quorum.

Cross commented about a presentation he and others had attended regarding the new impact fee legislation. He stated that he felt the Commissioners wanted to start naming a Committee to look into this.

**MOTION**

***Impact Fee Letter***

Cross made a motion seconded by Hines to draft a letter for the County Commissioners asking them to initiate whatever steps are required to form an impact fee study.

The motion carried by quorum.

Lapp commented about the transportation study from the LRPTF that Harris had handed out to the Board.

The Board discussed Bike Path easements and the current Bike Paths being constructed and proposed.

**ADJOURNMENT**

The meeting was adjourned at approximately 10:15 p.m. on a motion by Cross seconded by Hines. The next meeting will be held at 6:00 p.m. on June 21, 2006.

---

Jeff Larsen, President

---

Mary Sevier, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 7/19/06